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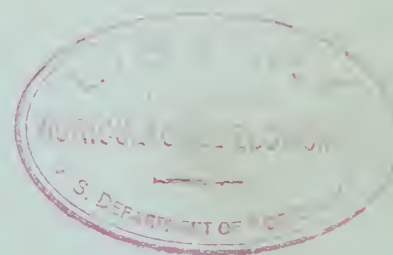
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UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

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RULES AND REGULATIONS
Governing the
INSPECTION AND CERTIFICATION
of
BEANS AND PEAS



Revised effective September 5, 1939

Washington, D. C.
September 1939

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Title 7
UNITED STATES DEPARTMENT OF AGRICULTURE
Chapter I
Agricultural Marketing Service
Part 58

RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE
GOVERNING THE INSPECTION AND CERTIFICATION OF
BEANS AND PEAS.

By virtue of authority vested in the Secretary of Agriculture by the provision in the Act of Congress entitled "An Act Making Appropriations for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1940, and for other purposes," approved June 30, 1939, (Public No. 159, 76th Congress) authorizing the establishment of an inspection service for farm products, I, H. A. Wallace, Secretary of Agriculture, do prescribe and promulgate the following rules and regulations governing the inspection and certification of beans and peas, to be in force and effect on and after September 5, 1939, as long as Congress shall provide the necessary authority therefor, unless amended or superseded by rules and regulations hereafter prescribed and promulgated under such authority. These rules and regulations are amendatory of and therefore shall supersede the rules and regulations governing the inspection and certification of beans and peas approved effective September 10, 1932.

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Definitions.

58.1 Meaning of words. Words in these regulations in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

58.2 Terms defined. For the purposes of these regulations, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(a) The Act. The following provision of an act of Congress entitled "An Act making appropriations for the Department of Agriculture and for the Farm Credit Administration for the fiscal year ending June 30, 1940," approved June 30, 1939 (Public No. 159, 76th Congress): "For enabling the Secretary of Agriculture, independently and in cooperation with other branches of the Government, State agencies, purchasing and consuming organizations, boards of trade, chambers of commerce, or other associations of businessmen or trade organizations, and persons or corporations engaged in the production, transportation, marketing, and distribution of farm and food products, whether operating in one or more jurisdictions, to investigate and certify to shippers and other interested parties the class, quality, and condition of cotton, tobacco, fruits and vegetables, whether raw, dried, or canned, poultry, butter, hay, and other perishable farm products when offered for interstate shipment or when received at such important central markets as the Secretary of Agriculture may from time to time designate, or at points which may be conveniently reached therefrom, under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the service rendered: Provided, That certificates issued by the authorized agents of the Department shall be received in all courts of the United States as prima facie evidence of the truth of the statements therein contained."

(b) Secretary. Secretary or Acting Secretary of Agriculture of the United States.

(c) Department. United States Department of Agriculture.

(d) Service. Agricultural Marketing Service of the Department.

(e) Beans and Peas. Beans and peas shall include dry edible beans; soybeans; cowpeas; dry peas, whole and split; and similar dry leguminous seeds used for food, feed, or manufacturing purposes.

(f) Person. Individual, association, partnership, or corporation.

(g) Inspector. Employee of the Department authorized by the Secretary, or other person licensed by him, to investigate and certify to shippers and other interested parties the class, quality, and/or condition of beans and peas under the act and these regulations.

(h) Official Sampler. Employee of the Department authorized by the Secretary or other person licensed by him in accordance with these regulations to draw official samples of beans and peas for inspection; provided that any inspector by virtue of his authorization or license as such inspector, shall be eligible to serve in the capacity of official sampler.

(i) Supervising Inspector. An employee of the Department authorized by the Secretary to inspect beans and peas and designated by the Chief of the Service to supervise the work of licensed inspectors and samplers and to handle appeal inspections of beans and peas as provided under these regulations.

(j) Office of Inspection. The office of an inspector of beans and peas.

(k) Inspection Certificate. Certificate of the grade, class, quality, and/or condition of beans and peas issued by an inspector under the act and these regulations.

(l) Interested party. Any person who has a financial interest in the beans and peas involved, including all carriers and warehouses who have handled or are handling the beans and peas, the present owner or any person who owned the beans and peas prior to him, and persons to whom the beans and peas have been sold and whose acceptance thereof hinges on the inspection.

(m) Regulations. Rules and regulations governing the inspection and certification of beans and peas promulgated by the Secretary under the act.

Administration.

58.3 Chief of Service. The Chief of the Service is charged with the administration of the provisions of the act and these regulations and is authorized to designate such officers of the Department as may be necessary to perform specific duties arising in connection therewith.

Points of Inspection.

58.4 Where inspection is offered. Inspections may be made for the purpose of the act wherever beans and peas are offered for interstate shipment including farms, warehouses, elevators, loading platforms, wagons, trucks, railroad cars, boats, barges, and vessels and at designated important central markets whenever inspectors are available and at nearby points accessible to such inspectors.

Inspection Service.

58.5 Standards to be used. Inspectors shall use the official United States standards when inspecting beans and peas for which such standards are available. Beans and peas for which there are no official United States standards may be graded under any standards the applicant desires used and which the inspector can interpret; or a certificate may be issued which gives a description of the class, quality, and/or condition of such beans and peas without reference to any standards.

58.6 Who may obtain inspection. Application for inspection of beans and peas under the act may be made by a State, or by any interested party, or by any authorized person in behalf of such applicant.

58.7 How inspection may be obtained. Application for inspection of beans and peas may be made to any inspector in writing or orally, by telegraph, telephone, or otherwise. If made orally, the inspector may require that it be confirmed in writing.

58.8 Form of application. The application for inspection of beans and peas shall be in English, and shall include the following information: (a) The date of the application; (b) the identification and location of the beans and peas; (c) the name and post office address of the applicant and of the person, if any, making the application in his behalf; (d) the interest of the applicant (except the State) therein; and (e) whether the beans and peas have been inspected previously, if known, and the facts relating to such inspection.

58.9 When application deemed filed. An application shall be deemed filed when delivered to an inspector or when received in an office of inspection. A record shall be made of the time and date each application is filed.

58.10 When an application may be rejected. Any application may be rejected by the inspector with whom it is filed or by the Chief of the Service for any noncompliance with the act or these regulations and all expenses incurred in connection therewith shall be paid by the applicant as provided in section 58.53.

58.11 When an application may be withdrawn. Application for inspection may be withdrawn by the applicant at any time before the inspection certificate is issued upon payment of any expenses incurred in connection therewith as provided in section 58.53.

58.12 Authority of agents. Proof of authority of any person applying for inspection on behalf of another may be required, in the discretion of the inspector.

58.13 Accessibility of beans and peas. The applicant shall cause the beans and peas for which inspection is requested to be made accessible for sampling so that a sample can be obtained which is representative of the class, quality and condition of the lot. Provided, however, that if the beans and peas are located in a railroad car, warehouse or elsewhere in such manner or position that it is impracticable to make all portions thereof available for sampling, a sample may be drawn from the accessible portion or portions of the lot and the grade, class, quality and condition determined on such sample, in which case appropriate qualifying statements shall be incorporated under remarks in certificates issued.

58.14 Order in which inspections made. The inspector shall make as many inspections as facilities will permit and, as far as practicable, in the order in which applications are received.

58.15 Financial interest of inspector. No person authorized or licensed by the Secretary to inspect beans and peas under the act and these regulations shall, during the term of such authority or license, have any financial interest, directly or otherwise, in a business engaged in buying, selling, warehousing, processing, or transporting beans and peas.

58.16 Certificate; issuance of. Inspectors shall sign and issue a certificate for each lot of beans and peas inspected by them. For purposes of issuing certificates, each kind of beans and peas inspected shall be considered as a separate lot. Also each class and/or grade, or combination or part thereof, of any one kind of beans and peas may be considered as a separate lot and a certificate issued thereon.

58.17 Form of inspection certificate. Each inspection certificate issued under the act and these regulations shall be approved as to form by the Chief of the Service and shall embody within its written or printed terms such statements of fact as may be required or authorized by him or by such officer of the Service as he may designate for the purpose.

58.18 Certificate deemed signed. A certificate shall be deemed signed by an inspector when his signature is affixed thereto either by the inspector or by his authorized agent, and the person affixing the signature, if otherwise than by the inspector in handwriting, is identified with such signature by his initials; Provided, however, that on all certificates covering export shipments and, upon request of an applicant, on any other certificates the signature of the inspector shall be affixed by handwriting.

58.19 Advance information. Upon request of an applicant for whom an inspection has been made, all or any part of the contents of the certificate may be telegraphed or telephoned to him at his expense.

58.20 Disposition of certificates. The original of an inspection certificate, immediately upon its issuance, shall be delivered or mailed to the applicant or a person designated by him in writing. One copy or a complete detailed record thereof shall be filed in the office of the inspector, and one or more copies as directed shall be forwarded to the Chief of the Service or to the supervising inspector. Additional copies may be delivered upon request to the applicant for whom the inspection was made, or his written order, in such number and upon payment of such fees as may be approved by the Chief of the Service.

58.21 Superseded certificates. No inspector shall issue, or permit to be issued over his signature, a copy of an inspection certificate which has been superseded by a Federal appeal inspection certificate except with the knowledge and approval of the supervising inspector.

Reinspection.

58.22 When a reinspection may be made. Whenever an applicant for whom an inspection has been made believes the class, quality, and/or condition of a lot of beans and peas as stated in the inspection certificate issued thereon is not correct he may file an application for a reinspection of the lot in the office of inspection where the original inspection was made; Provided (a) the application for reinspection is filed not later than the close of business on the second business day after the date of the original inspection; (b) the beans and peas have not left the place where the original inspection was made; (c) the identity of the beans and peas has not been lost; (d) the certificate issued as a result of the original inspection is surrendered to the inspector; and (e) an application for an appeal inspection has not been filed as provided in section 58.25.

58.23 Reinspection certificates. Inspectors who make a reinspection of a lot of beans and peas, in accordance with section 58.22 shall sign and issue a certificate in accordance with sections 58.16 and 58.18. Such certificate shall bear on its face the notation "Reinspection" and shall clearly identify by number and date the certificate which it supersedes. Copies of reinspection certificates shall be mailed or delivered to all parties who received copies of the superseded certificate.

58.24 Reinspection not to prevent filing appeals. Nothing in this regulation providing for a reinspection of a lot of beans and peas shall prevent the applicant for reinspection or any other interested party from filing an application for an appeal inspection in accordance with the provisions of section 58.25.

Appeals.

58.25 When an appeal may be taken. Whenever an interested party believes the class, quality, and/or condition of a lot of beans and peas stated in the last outstanding certificate is not the correct class, quality, and/or condition of such beans and peas, or for any reason desires a Federal appeal inspection certificate on such lot of beans and peas, he may file an application for an appeal inspection; Provided (a) the identity of the lot of beans and peas has not been lost; (b) all of the beans and peas are available and accessible for making an appeal inspection; and (c) the condition of the beans and peas has not undergone any material change.

58.26 How to take an appeal. Application for an appeal inspection may be made in writing or orally, by telegraph, telephone, or otherwise; and may be filed with the Chief of the Service or a supervising inspector. If made orally it shall be confirmed promptly in writing. The application shall state; (a) the identity and location of the beans and peas; (b) reasons for requesting the appeal inspection; (c) the interest of the appellant therein; (d) the names and addresses of other interested parties if any; and (e) the name and address of the appellant. The application shall be accompanied by the original of the certificate for the inspection from which the appeal is taken, if in the possession of the appellant.

58.27 Record of appeal. A record of the time, date, and place of filing an appeal application or other document relative to an appeal inspection shall be made by the supervising inspector immediately upon receipt thereof.

58.28 When an appeal may be refused. If it shall appear to the Chief of the Service or the supervising inspector that the reasons stated in an appeal application are frivolous or unsubstantial, or the act or these regulations have not been complied with, the application for appeal may be dismissed. The appellant shall be notified by telegraph or in writing of the reason for such dismissal, a statement of such action shall be included in the record of such appeal by the supervising inspector making the same, and all expenses incurred in connection therewith shall be paid by the appellant as provided in section 58.53. Upon the dismissal of an appeal, the inspection certificate filed therewith shall be returned immediately to the person by whom filed, or delivered upon his written order.

58.29 When an appeal may be withdrawn. An application for appeal may be withdrawn by the appellant at any time before the Federal appeal inspection certificate is issued, upon payment of any expense incurred by the Department in connection therewith as provided in section 58.53. Upon withdrawal of an application for appeal the inspection certificate filed therewith shall be returned to the person by whom filed, or delivered upon his written order.

58.30 When application deemed filed. An application for appeal inspection shall be deemed filed when delivered in any form to the Chief of the Service or to the office of a supervising inspector.

58.31 Order in which appeal inspections made. Appeal inspections shall be made as far as practicable in the order in which applications therefor are filed and shall take precedence over all other forms of inspection.

58.32 Who shall make appeal inspections. Appeal inspections shall be made only by supervising inspectors authorized for the purpose by the Chief of the Service.

58.33 Issuance of appeal inspection certificates. When an appeal inspection has been made, a certificate, designated "Federal appeal inspection certificate," shall be signed and issued by the supervising inspector. The appeal inspection certificate shall state the grade, class, quality, and/or condition of the beans and peas as shown by the appeal inspection and shall refer specifically to the inspection from which the appeal is taken. Copies of the appeal inspection certificate shall be sent to all interested parties, if known, other than the carriers, and to such of them as have been applicants for any former inspection of the beans and peas on which the appeal inspection is made. In all other respects the provisions of sections 58.5 - 58.21 relative to inspections shall apply to appeal inspections.

58.34 Superseded certificates. When a Federal appeal inspection certificate has been issued pursuant to these regulations, no certificate issued prior thereto shall thereafter represent the grade and class of the lot of beans and peas described therein. If the original of the superseded certificate from which the appeal is taken is not delivered to the supervising inspector with whom the application for the appeal inspection is filed, the supervising inspector may give such public notice of the issuance of the Federal appeal inspection certificate and status of the superseded certificate or certificates as he considers necessary to prevent fraud.

Adjusted Certificates.

58.35 Certificates may be adjusted. Inspection certificates issued at interior lake ports on a lot of beans and peas for export may be adjusted or divided and two or more certificates issued in lieu thereof when such beans and peas are located at Canadian seaports and are still in an export status.

58.36 By whom issued. Adjusted certificates shall be issued only by such officer or officers of the Service as may be designated for the purpose by the Chief of the Service.

58.37 How to obtain adjusted certificates. Adjusted certificates will be issued upon surrender of the original of the inspection certificate to be adjusted or divided accompanied by (1) an application stating: (a) the number of adjusted certificates desired and the quantity of beans and peas to be covered by each; (b) the identity of the beans and peas as evidenced by certificate of grade filed therewith; (c) the location of the beans and peas; (d) the name of the steamship on which the beans and peas have been or are to be loaded; and (e) the destination of the cargo, and (2) satisfactory evidence that the beans and peas are in good condition and have been or will be loaded into the vessel named in the application.

58.38 Quantity of beans and peas covered by adjusted certificates. The quantity of beans and peas covered by an adjusted certificate may be any fractional unit of that covered by the certificate surrendered with the application, but the total quantity covered by all of the adjusted certificates issued as requested in such application shall be the same as the total quantity covered by the certificate surrendered and which is superseded by the adjusted certificates.

58.39 Form of adjusted certificates. Adjusted certificates issued shall be the same form as that of the certificate surrendered with the application for adjustment or division.

58.40 Certificates not to be combined. No adjusted certificate shall be issued in lieu of or by combining two or more original inspection certificates.

Licensed Inspectors.

58.41 Who may be licensed. Persons who are to be licensed by the Secretary to inspect beans and peas under the act and these regulations shall be citizens of the United States, shall have passed their twenty-first birthday, shall not be interested directly or indirectly in a business of processing, merchandising, warehousing, or transporting beans and peas, shall demonstrate their ability to correctly interpret and apply the official U. S. standards for the kind or kinds of beans and peas designated, and shall meet such other qualifications or conditions as the Chief of the Service may require.

58.42 Licenses countersigned. Licenses issued to persons who qualify as inspectors of beans and peas shall be countersigned by such officer of the Service as the Chief of the Service may designate.

58.43 Suspension and revocation of license. Pending final action by the Secretary, any inspector's license may be suspended by the Chief of the Service or by the official by whom it may be countersigned, accompanied by a statement of the reasons therefor, whenever the Chief of the Service or such official shall consider such action to be for the good of the service. Within ten days after any such suspension the licensee may file an appeal in writing to the Secretary supported by any evidence he may wish to offer in his behalf. Upon consideration of such evidence and after making such investigations as he may deem necessary the Secretary may subsequently revoke any suspended license.

Licensed Samplers.

58.44 Who may be licensed. Persons who are citizens of the United States, who have passed their twenty-first birthday, who are not interested directly or indirectly in the business of merchandising beans and peas and who possess such other qualifications as may be required by the Chief of the Service may be licensed by the Secretary to draw official samples from lots of beans and peas offered for inspection, reinspection, or appeal inspection under the act and these regulations.

58.45 Sampler's license countersigned. Licenses issued to persons who qualify as official samplers shall be countersigned by the supervising inspector in the district in which the sampler is located or employed.

58.46 When samples shall be drawn. Upon request of a supervising inspector, an inspector, or an applicant for inspection, licensed samplers shall draw samples from designated lots of beans and peas in accordance with the methods approved by the Chief of the Service.

58.47 Where samples shall be forwarded. Licensed samplers shall deliver or mail all samples drawn by them to such supervising inspectors and/or inspectors as the Chief of the Service or the supervising inspector may direct and shall furnish with each sample such information as the Chief of the Service or the supervising inspector may request.

58.48 Samples shall be official. Samples drawn by licensed samplers shall be accepted by any supervising inspector or inspector as official samples and used as a basis for determining the grade, class, quality, and/or condition of the lot of beans and peas from which such samples are drawn.

58.49 License may be suspended or revoked. Pending final action by the Secretary, a sampler's license may be suspended by the Chief of the Service or by the supervising inspector by whom it is countersigned, accompanied by a statement of the reasons therefor, whenever the Chief of the Service or such supervising inspector shall deem such action to be for the good of the service. Within ten days after any such suspension the licensee may file an appeal in writing to the Secretary, supported by any evidence he may wish to offer in his behalf. Upon consideration of such evidence and after making such investigations as he may deem necessary the Secretary may subsequently revoke any suspended license.

Fees and Charges.

58.50 Fees and charges for inspection. The fees and charges for inspections and reinspections of beans and peas at shipping points, designated markets, and other points shall be fixed in accordance with paragraphs (a), (b), and (c) of this section.

(a) Inspections by salaried employees of the Department. Fees and charges for inspections made by inspectors who are salaried employees of the Department shall be fixed by the Chief of the Service and published in accordance with section 58.59.

(b) Inspections under cooperative agreements. Fees and charges for inspections made by inspectors licensed under a cooperative agreement with a State, board of trade, or other organization or with a person, shall be in accordance with the provisions of such agreement approved by the Chief of the Service.

(c) Reinspections. Fees and charges for reinspections shall be the same as those for inspections as provided in paragraphs (a) and (b) of this section, provided, however, that when the grade and/or class as shown by an inspection is changed by a reinspection no fees or charges shall be assessed against the applicant.

58.51 Fees and charges for appeal inspections. Fees and charges for appeal inspections of beans and peas shall be fixed by the Chief of the Service and published under section 58.59; Provided that when the grade and/or class, as shown by the inspection from which the appeal is taken, is changed by the appeal inspection no fees or charges shall be assessed against the appellant.

58.52 Fees and charges for adjusted certificates. Fees and charges for adjusted certificates issued in accordance with sections 58.35 - 58.40 shall be fixed by the Chief of the Service and published in accordance with section 58.59.

58.53 Fees and charges when inspections or appeal inspections are withdrawn or refused. When applications for inspection or appeal inspection are withdrawn by the applicant in accordance with section 58.11 or section 58.29, or when such applications are refused in accordance with section 58.10 or section 58.28, the regular fee will not be assessed but the applicant may be required to pay a reasonable amount for the inspector's time, together with all expenses for travel and other items in connection with such application prior to its withdrawal or refusal.

58.54 Fees and charges for sampling. Fees and charges for samples drawn by licensed samplers shall be reasonable, and shall be approved by the Chief of the Service.

58.55 Payment of fees and charges. Fees and charges for inspections, reinspections, appeal inspections, and adjusted certificates shall be paid by the applicant in accordance with the provisions of paragraphs (a) and (b) of this section and in advance if required.

(a) Fees and charges for inspections by Department employees. Fees and charges for inspections and reinspections made by inspectors who are employees of the Department and for appeal inspections and adjusted certificates shall be made payable to the Treasurer of the United States and shall be remitted promptly to the Service.

(b) Fees for inspections under cooperative agreements.

Fees and charges for inspections made by inspectors licensed under a cooperative agreement with a person or corporation or with a State, board of trade, or other agency shall be paid by the applicant in accordance with the terms of such agreement.

58.56 Refunds. The Chief of the Service will cause to be returned to the person or the cooperating agency entitled thereto any money remitted in excess of the amount due the United States.

58.57 Fees for licensed samplers. Fees and charges for licensed samplers shall be paid by the applicant for sampling, including the Service as such applicant, either direct to the sampler or to the person or cooperating agency by whom he is employed in the capacity of sampler. If the Service be the applicant and the sampler is licensed and employed under a cooperative agreement, payment shall be made by the Service in accordance with the terms of such agreement.

Miscellaneous.

58.58 Fraud or misrepresentation. Any misrepresentation or any deceptive or fraudulent practice made or committed by an applicant for inspection may be deemed sufficient cause for debarring the person guilty thereof from any further benefits of the act, and in case of violation of the Federal Food, Drugs, and Cosmetic Act may subject the shipper to prosecution and the beans and peas to seizure.

58.59 Publications. Publications under the act and these regulations shall be made in Service and Regulatory Announcements of the Department and such other media as the Chief of the Service may from time to time designate for the purpose.

58.60 Inspection records confidential. Records of inspections, including copies of certificates issued, records of such certificates, applicants' accounts, and other detailed information relating to the work of an inspection office are not to be made available to or to be opened for examination by any person who is not connected with the bean and pea inspection service. Such records shall be held strictly confidential and for reference by the inspector in charge of the office and his assistants and by the supervising inspector. Summarized reports which do not disclose the operations of an individual grower, shipper, or other applicant for inspection and which are identified clearly as to source and contents may be released to the public, provided that when so released they shall be published in such manner and in such media as will make the information available alike to all interested persons.

58.61 Political activity. All inspectors authorized either by appointment or license from the Secretary, to issue inspection certificates under the act and these regulations are forbidden, during the period of their appointment or license, to take an active part in political management or in political campaigns. Political activity in city, county, State, or national elections, whether primary or regular,

or in behalf of any party or candidate, or any measure to be voted upon, is prohibited. This applies to all appointees, including temporary and cooperative employees, and employees on leave of absence with or without pay. Wilful violation of this regulation will constitute grounds for dismissal in the case of appointees, and revocation of licenses in the case of licensees.

58.62 Identification. All inspectors and licensed samplers shall have in their possession, and be able to present upon request, while on duty, appropriate means of identification furnished by the Department.

Done at Washington, D. C., this 16th day of September 1939.

Witness my hand and the seal of the Department of Agriculture.

(seal)

Henry A. Wallace

Secretary of Agriculture.

